

**In the United States Court of Federal Claims**

**No. 18-433 C**

**ACETRIS HEALTH, LLC,**

**Plaintiff,**

**JUDGMENT**

**v.**

**THE UNITED STATES,**

**Defendant.**

Pursuant to the court's Opinion and Order, filed July 10, 2018, denying defendant's motion to dismiss on standing grounds, granting-in-part and denying-in-part plaintiff's motion to supplement the administrative record, and granting-in-part and denying-in-part the parties' cross-motions for judgment on the administrative record,

IT IS ORDERED AND ADJUDGED this date, pursuant to Rule 58, that plaintiff is entitled to declaratory and injunctive relief. Specifically, the court declares that:

The term "U.S.-made end product," as used in the Trade Agreements clause, includes "domestic end products," as that term is defined in the FAR.

The VA's failure to construe the term "U.S.-made end product," as used in the Trade Agreements clause, to include "domestic end products," as that term is defined in the FAR, was arbitrary, capricious, and contrary to law.

It was arbitrary and capricious for the VA to require manufacturers to certify that the offered products were "[Trade Agreements Act] compliant."

The VA's failure to independently assess whether plaintiff's Entecavir Tablets qualified as U.S.-made end products under the Trade Agreements clause was arbitrary, capricious, and contrary to law.

In addition, the court enjoins the VA, in future procurements, from

construing the term "U.S.-made end product" in the Trade Agreements clause as excluding products manufactured in the United States (in other words, domestic end products), and

relying on CBP rather than independently ascertaining whether an offered product is manufactured in the United States (in other words, a domestic end product) pursuant to the definition of the term "U.S.-made end product."

Lisa L. Reyes  
Clerk of Court

**July 11, 2018**

By: s/ Anthony Curry

Deputy Clerk

NOTE: As to appeal, 60 days from this date, see RCFC 58.1, re number of copies and listing of all plaintiffs. Filing fee is \$505.00.